

Questions and Answers on Least Restrictive Environment (LRE) Requirements of the IDEA

U. S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS)

Introduction

The least restrictive environment (LRE) requirements of Part B of the Individuals with Disabilities Education Act (IDEA) have been included in the law in their present form since 1975. However, these requirements continue to generate complex and interesting questions from the field. In particular, questions have been raised about the relationship of IDEA's LRE requirements to "inclusion."

Consistent with our attempt to provide you and your staff with as much current information as possible and to ensure that the applicable requirements of IDEA that govern the education of students with disabilities are accurately understood and properly implemented, guidance on IDEA's LRE requirements is being provided in a question and answer format.

In most cases, this question and answer document consolidates the prior policy guidance that the Department has provided in this area. We encourage you to disseminate this document to a wide range of individuals and organizations throughout your State. Any further questions should be directed to the contact person named at the beginning of this document or to Dr. Joleta Reynolds at (202) 205-5507.

We hope that the above questions and answers are of assistance to you and your staff as you carry out your responsibilities to ensure that disabled students are provided a free appropriate public education in the least restrictive environment.

Questions and Answers

1. What are the least restrictive Environment (LRE) requirements of Part B of IDEA?

ANSWER: In order to be eligible to receive funds under Part B of IDEA (IDEA), States must, among other conditions, assure that a free appropriate public education (FAPE) is made available to all children with specified disabilities in mandated age ranges.

The term "FAPE" is defined as including, among other elements, special education and related services, provided at no cost to parents, in conformity with an individualized education program (IEP).

The IEP, which contains the statement of the special education and related services to meet each disabled students' unique needs, forms the basis for the entitlement of each student with a disability to an individualized and appropriate education.

IDEA further provides that States must have in place procedures assuring that, "to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

This provision, which states IDEA's strong preference for educating students with disabilities in regular classes with appropriate aids and supports, is found in the statute at 20 U. S. C. §1412 (5) (B) and is implemented by the Department's regulations at 34 CFR §§300.550-300.556. Copies of the relevant statutory and regulatory provisions are attached to this question and answer document.

2. Does IDEA define the term "inclusion?"

ANSWER: IDEA does not use the term "inclusion"; consequently, the Department of Education has not defined that term. However, IDEA does require school districts to place students in the LRE.

LRE means that, to the maximum extent appropriate, school districts must educate students with disabilities in the regular classroom with appropriate aids and supports, referred to as "supplementary aids and services, " along with their nondisabled peers in the school they would attend if not disabled, unless a student's IEP requires some other arrangement. This requires an individualized inquiry into the unique educational needs of each disabled student in determining the possible range of aids and supports that are needed to facilitate the students's placement in the regular educational environment before a more restrictive placement is considered.

In implementing IDEA's LRE provisions, the regular classroom in the school the student would attend if not disabled is the first placement option considered for each disabled student before a more restrictive placement is considered.

If the IEP of a student with a disability can be implemented satisfactorily with the provision of supplementary aids and services in the regular classroom in the school the student would attend if not disabled, that placement is the LRE placement for that student. However, if the student's IEP cannot be implemented satisfactorily in that environment, even with the provision of supplementary aids and services, the regular classroom in the school the student would attend if not disabled is not the LRE placement for that student.

3. How can IDEA requirements be implemented to ensure that consideration is given to whether a student with a disability can be educated in the regular educational environment with the use of supplementary aids and services before a more restrictive placement is considered?

ANSWER: The relationship of IDEA's LRE requirements to the IEP process is key, since under IDEA, the student's IEP forms the basis for the student's placement decision.

IDEA requires that the IEP of each disabled student must contain, among other components, a "statement of the specific special education and related services to be provided to the child and the extent that the child will be able to participate in regular educational programs." 34 CFR §300.346 (a) (3).

At the student's IEP meeting, the extent that the student will be able to participate in regular educational programs is one of the matters to be addressed by all of the participants on the student's IEP team before the student's IEP is finalized. In addressing this issue, the team must consider the range of supplementary aids and services, in light of the student's abilities and needs, that would facilitate the student's placement in the regular educational environment. As discussed in question 4 below, these supplementary aids and services must be described in the student's IEP.

4. Does IDEA define the term "supplementary aids and services?"

ANSWER: No. However, in determining the educational placement for each disabled student, the first line of inquiry is whether the student's IEP can be implemented satisfactorily in the regular educational environment with the provision of supplementary aids and services. This requirement has been in effect since 1975 when the education of the Handicapped Act (EHA), the predecessor to the IDEA, originally became law.

Consistent with this requirement, any modifications to the regular educational program, i. e. , supplementary aids and services that the IEP team determines that the student needs to facilitate the student's placement in the regular educational environment must be described in the student's IEP and must be provided to the student. Appendix C to 34 CFR Part 300 (question 48). While determinations of what supplementary aids and services are appropriate for a particular student must be made on an individual basis, some supplementary aids and services that educators have used successfully include modifications to the regular class curriculum, assistance of an itinerant teacher with special education training, special education training for the regular teacher, use of computer-assisted devices, provision of notetakers, and use of a resource room, to mention a few.

5. How frequently must a disabled student's placement be reviewed under IDEA?

ANSWER: Under IDEA, each disabled student's placement must be determined at least annually, must be based on the student's IEP, and must be in the school or facility as close as possible to the student's home.

Under IDEA, each student's placement decision must be made by a group of persons, including persons knowledgeable about the student, the meaning of evaluation data and the placement options. While the student's IEP forms the basis for the placement decision, a student's IEP cannot be revised without holding another IEP meeting, which the school district is responsible for convening.

If either the student's parent or teacher or other service provider wishes to initiate review of the student's IEP at a point in the school year that does not correspond with the annual IEP review, that individual can request the school district to hold another IEP meeting. If the IEP is revised, following the meeting, the placement team would need to review the student's IEP to determine if a change in placement would be needed to reflect the revised IEP.

6. If a determination is made that a student with a disability can be educated in regular classes with the provision of supplementary aids and services, can school districts refuse to implement the student's IEP in a specific class because of the unwillingness of a particular teacher to educate that student in his or her classroom or the teacher's assertion that he or she lacks adequate training to educate that student effectively?

ANSWER: Under IDEA, lack of adequate personnel or resources does not relieve school districts of their obligations to make FAPE available to each disabled student in the least restrictive educational setting in which his or her IEP can be implemented.

Exclusion of a student from an appropriate placement based solely on the student's disability is prohibited by Section 504 of the Rehabilitation Act of 1973.

However, placement in a particular regular class based on the qualifications of the particular teacher is permissible under both statutes.

The public agency has an affirmative responsibility to ensure the supply of sufficient numbers of teachers who are qualified, with needed aids and supports, to provide services to students with disabilities in regular educational environments, and to provide necessary training and support services to students with disabilities. The Department encourages States and school districts to develop innovative approaches to address issues surrounding resource availability. Factors that could be examined include cooperative learning, teaching styles, physical arrangements of the classroom, curriculum modifications, peer mediated supports, and equipment, to mention a few.

7. Once a determination is made that a disabled student cannot be educated satisfactorily in the regular educational environment, even with the provision of supplementary aids and services, what considerations govern placement?

ANSWER: IDEA does not require that every student with a disability be placed in the regular classroom regardless of individual abilities and needs.

This recognition that regular class placement may not be appropriate for every disabled student is reflected in the requirement that school districts make available a range of placement options, known as a continuum of alternative placements, to meet the unique educational needs of students with disabilities. This requirement for the continuum reinforces the importance of the individualized inquiry, not a "one size fits all" approach, in determining what placement is the LRE for each student with a disability. The options on this continuum must include "the alternative placements listed in the definition of special education under § 300.17 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions). " 34 CFR §300.551 (b) (1).

These options must be available to the extent necessary to implement the IEP of each disabled student. The placement team must select the option on the continuum in which it determines that the student's IEP can be implemented. Any alternative placement selected for the student outside of the regular educational environment must maximize opportunities for the student to interact with nondisabled peers, to the extent appropriate to the needs of the student.

It also should be noted that under IDEA, parents must be given written prior notice that meets the requirements of §300.505 a reasonable time before a public agency implements a proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. Consistent with this notice requirement, parents of disabled students must be informed that the public agency is required to have a full continuum of placement options, as well as about the placement options that were actually considered and the reasons why those options were rejected. 34 CFR §§300.504-300.505; Notice of Policy Guidance on Deaf Students Education Services, published at 57 Fed. Reg. 49274 (Oct. 30, 1992).

8. What are the permissible factors that must be considered in determining what placement is appropriate for a student with a disability? Which factors, if any, may not be considered?

ANSWER: The overriding rule in placement is that each student's placement must be individually-determined based on the individual student's abilities and needs. As noted previously, it is the program of specialized instruction and related service contained in the student's IEP that forms the basis for the placement decision. In determining if a placement is appropriate under IDEA, the following factors are relevant:

the educational benefits available to the disabled student in a traditional classroom, supplemented with appropriate aids and services, in comparison to the educational benefits to the disabled student from a special education classroom;

the non-academic benefits to the disabled student from interacting with nondisabled students; and the degree of disruption of the education of other students, resulting in the inability to meet the unique needs of the disabled student.

However, school districts may not make placements based solely on factors such as the following:

- category of disability;
- severity of disability;
- configuration of delivery system;
- availability of educational or related services;
- availability of space; or
- administrative convenience.

9. To what extent is it permissible under IDEA for school districts to consider the impact of a regular classroom placement on those students in the classroom who do not have a disability?

ANSWER: IDEA regulations provide that in selecting the LRE, consideration is given to any potential harmful effect on the student or on the quality of services that the student needs.

If a student with a disability has behavioral problems that are so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the disabled student cannot be met in that environment.

However, before making such a determination, school districts must ensure that consideration has been given to the full range of supplementary aids and services that could be provided to the student in the regular educational environment to accommodate the unique needs of the disabled student. If the placement team determines that even with the provision of supplementary aids and services, that student's IEP could not be implemented satisfactorily in the regular educational environment, that placement would not be the LRE placement for that student at the particular time, because her or his unique educational needs could not be met in that setting.

While IDEA regulations permit consideration of the effect of the placement of a disabled student in a regular classroom on other students in that classroom, selected findings from Federally funded research projects indicate that:

(1) achievement test performance among students who were classmates of students with significant disabilities were equivalent or better than a comparison group (Salisbury, 1993);

(2) students developed more positive attitudes towards peers with disabilities (CRI, 1992); and

(3) self concept, social skills, and problem solving skills improved for all students in inclusive settings (Peck, Donaldson, & Pezzoli, 1990, Salisbury & Palombaro, 1993). 1

10. Are there any resources that the Department is aware of that have proven helpful to educators and paraprofessionals in implementing inclusive educational programs?

ANSWER: The Department has supported a variety of professional development and training projects (e. g., preservice, inservice, school restructuring projects) that address the needs of students with disabilities in inclusive educational programs.

In addition, the Department has financed Statewide Systems Change projects which support changing the setting for the delivery of educational services from separate settings to general educational settings in the school that the student would attend if not disabled.

Numerous materials and products have been developed by these projects which have focused on the strategies that support collaborative planning and problem solving, site based control, curriculum and technological adaptations and modifications, parent and family involvement, and the creative use of human and fiscal resource. These projects have underscored the importance of timely access to resources (e.g., people, materials, information, technology) when they are needed.

TO: Chief State School Officers

FROM: Judith E. Heumann, Assistant Secretary
Office of Special Education and Rehabilitation Services

Thomas Hehir, Director
Office of Special Education Programs

Date: November 23, 1994

1. California Research Institute. (1992). Educational practices in integrated settings associated with positive student outcomes. Strategies on the Inclusion on the integration of the Students with Severe Disabilities, 3, (3) , 7, 10. San Francisco State University. San Francisco, California.

Peck C. A., Donaldson, J., Pezzoli, M. (1990). Some benefits non-handicapped adolescents perceive for themselves from their social relationships with peers who have severe disabilities. Journal of the Association for Persons with severe Handicaps, 15 (4), 241-249.

Salisbury, C. L. (1993, November). Effects of inclusive schooling practices: Costs to Kids and organizations. Presentation at the 1993 Conference of the Association for Persons with Severe Handicaps, Chicago, Illinois.

Salisbury, C. L. , & Palombaro, M. M. (Eds.) (1993). "No problem." Working things out our way. State University of New York - Binghamton, Binghamton, New York.

Links:

National Information Center for Children and Youth with Disabilities

P. O. Box 1492

Washington, D. C. 20013-1492

Telephone: 1-800-695-0285

(Deaf and hearing-impaired individuals may also call this number for TDD services)

Consortium on Inclusive Schooling Practices

Allegheny Singer Research Institute

320 E. North Avenue

Pittsburgh, PA 15212

Telephone: (412) 359-1600

<http://www.asri.edu/CFSP/brochure/abtcons.htm>

California Research Institute on the Integration of Students with Severe Disabilities

San Francisco State University

1415 Tapia Drive

San Francisco, California 94132

Telephone: (415) 338-7847-48

(Deaf and hearing-impaired individuals may also call the California Relay Service at 1-(800)-735-2922

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